IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA.

Cr. Appeal No. 427 of 2000

Date of Decision : September 7, 2007

State of H.P. …Appellant.

Versus:

Amit Kaushal …Respondent.

***Coram*:**

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1] *No*

For the appellant: Mr. Ashok Chaudhary, Addl. A. G.

For the respondent : Mr. N. K. Thakur, Advocate.

Sanjay Karol, J. (Oral).

The present appeal arises out of the judgment dated 5.1.2000 passed by the Juvenile Court of Himachal Pradesh at Una, in Criminal Case No. 48/98 titled as State v. Amit Kaushal, acquitting the accused of the charged offence.

FIR No. 649/98 dated 25.11.1998, Police Station, Una was registered against the present respondent u/s 279, 338 IPC. On 25.11.1998, Shri Karam Chand reported the matter to HC Beer Singh (PW-9) that at about 7.45 A.M. his father Khaili Ram, was hit by a Scooter bearing No. PB-16-4604 driven by accused Amit Kaushal, resulting in death of his father. HC Kuldeep

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[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

(PW-3) recorded the FIR and after recording the statements of the witnesses and completing the investigation, filed the challan for trial u/s 279, 338 & 304-A IPC.

The delinquent-accused was summoned and tried by the Juvenile Court at Una. After complying with the provisions of Section 207 Cr.PC, the delinquent did not plead guilty and claimed trial. In all, prosecution examined 10 witnesses and after recording the statements of all the prosecution witnesses, the statement of accused u/s 313 Cr.PC was also recorded.

The prosecution has sought to rely upon the statement of independent eye witnesses Shri Sudesh (PW-5), traffic constable Kulbhushan Kumar (PW-8) and Shri Ajay Kumar (PW-11). PW-5 & PW-11 have not supported the case of the prosecution at all. From the examination of PW-8, it is clear that he was not an eye witness and that even though he was Incharge of the traffic, however, he reached the spot after the incident took place and had thus, not seen the incident happen in his presence. Dr. M. K. Pathak (PW-1) and Dr. Vipan Chander Sharma (PW-2) have proved the post mortem report Ext.PW-1/A and MLC Ext.PW-2/A. Shri Bhagwant Singh (PW-4) has also not supported the case of the prosecution as he has deposed that he had reached the spot after the incident had already taken place. Shri Rangila Ram (PW-6) is a Radiographer and has deposed only to the X-ray films.

The trial Court has held that none of the witnesses have supported the case of the prosecution. With regard to the deposition of Shri Kulbhushan Kumar (PW-8), he had reached the spot only after the occurrence of incident as he was passing through the road at the time of accident on his way to Galua Chowk.

Considering the entire material on record, I see no reason to interfere with the judgment passed by the Court below, acquitting the accused of the offences charged. There has been correct appreciation of facts and the finding is based on cogent material and is reasoned. The appeal is accordingly dismissed. The bail bonds stand discharged.

(Sanjay Karol), J.

September 7, 2007
(rana)